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NEWS RELEASE

For Media Release August 7, 2003

COMMENT WANTED ON PROPOSAL TO AMEND SUPREME COURT RULE

The Supreme Court of Hawai'i seeks public comment about a proposal to amend Rule 2.7(c) of the Rules of the Supreme Court of the State of Hawai'i.

A prior order dated March 18, 1993, added a new subsection (b) to RSCH 2.7 and re-designated each following subsection accordingly. However, the order did not change the internal reference in the re-designated (c) subsection from (d) to (e). This proposal corrects the internal reference.

Proposed Rule 2.7(c) is as follows (deleted material is bracketed in bold and new material is underlined):

Rule 2.7. PROCEDURE.

* * *

(c) **Formal Hearing.** Formal disciplinary proceedings shall be instituted by Counsel by filing with the Board a petition which shall be sufficiently clear and specific to inform the respondent of the alleged misconduct. A copy of the petition shall be served upon the respondent in accordance with Rule 2.11 (a). Notwithstanding Rule 2.22, if at the time the petition is served, the respondent is engaged in the act of the practice of law as a part of a firm, partnership, corporation or governmental entity or other group, Counsel shall provide a notice to the respondent's employer of the fact that formal disciplinary proceedings have been filed with the Board. The respondent shall serve his or her answer upon Counsel and file the original with the Board within 20 days after the service of the petition, unless such time is extended by the Board Chairperson. In the event the respondent fails to answer, the charges shall be deemed admitted; provided, however, that a respondent who fails to answer within the time provided may obtain permission of the Chairperson to file an answer if such failure to file an answer was attributable to mistake, inadvertence, surprise or excusable neglect. Following the service of the answer or upon failure to answer, the matter shall, unless the provisions of [(d)] (e) below apply, be assigned by the Chairperson to a hearing committee or officer. The hearing committee or officer receiving the assignment shall serve a notice of hearing upon Counsel and the respondent, or the respondent's counsel, stating the date, time, and place of the hearing. At every hearing wherein factual issues are to be resolved, the respondent shall have a full opportunity to confront and cross-examine such witnesses presented by Counsel and to present evidence on his or her own behalf. The hearing committee or officer shall, in every case, submit a report containing findings and recommendations, together with a record of the proceedings, to the Board within 30 days after the conclusion of the hearing. The findings of the hearing committee or officer shall be supported by clear and convincing evidence. The hearing committee or officer shall not be bound by the formal rules of evidence, but shall admit only trustworthy evidence. The hearing committee or officer shall not rely upon any evidence outside the formal record in reaching a decision.

Comments about the proposed amendment should be submitted in writing no later than Oct. 30, 2003 to the Judiciary Public Affairs Office, 417 South King Street, Honolulu, Hawai'i 96813; by facsimile to (808) 539-4801; or via the Judiciary website at www.courts.state.hi.us.

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